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Siddharth Hariharan

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIDDHARTH HARIHARAN, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

ADOBE SYSTEMS INC., APPLE INC.,
GOOGLE INC., INTEL CORP., INTUIT
INC., LUCASFILM LTD., PIXAR, and
DOES 1-200,

Defendants.

Case No. C 11-2509 SBA

**[PROPOSED] ORDER RELATING
ACTIONS AND TRANSFERRING TO THE
SAN JOSE DIVISION**

WHEREAS, Plaintiff Siddharth Hariharan requests intradistrict transfer of this action to the San Jose Division of the Northern District of California pursuant to Civil Local Rule 3-13 (Dkt. Nos. 32 and 35);

WHEREAS, Defendants Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., and Pixar did not respond to the requests within the time provided under Civil Local Rule 3-13(c) ("No later than 14 days after service of a Notice of Pendency of Other Action, any party may file with the Court a statement supporting or opposing the notice"); and

WHEREAS, this Court has authority under Civil Local Rule 3-13(d) to "[a]fter the time

1 for filing support or opposition to the Notice of Pendency of Other Actions or Proceedings has
 2 passed, the Judge assigned to the case pending in this district may make appropriate orders[.]"
 3 and the Court has authority under Civil Local Rule 3-2(h) to order intradistrict transfer on the
 4 Court's own motion; and

5 WHEREAS, Defendants have filed an Administrative Motion to Consider Whether Cases
 6 Should be Related, under Civil Local Rule 3-12 (Dkt. No. 41):

7 THE COURT HEREBY FINDS THAT:

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- 9 1. This case is one of five total cases that "concern substantially the same parties,
 10 property, transaction or event." Civ. L.R. 3-12(a)(1). The other four cases were
 11 originally filed in Santa Clara Superior Court and removed to the San Jose
 12 Division of the Northern District of California. The titles of these cases are:
 13 *Devine v. Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc.,*
 14 *Lucasfilm Ltd., Pixar and Does 1 – 200*, Case No. 11-CV-03539 HRL; *Marshall v.*
 15 *Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm*
 16 *Ltd., Pixar and Does 1 – 200*, Case No. 11-CV-03538 HRL; *Fichtner v. Adobe*
 17 *Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., Pixar*
 18 *and Does 1 – 200*, Case No. 11-CV-03540 PSG; and *Stover v. Adobe Systems Inc.,*
 19 *Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., Pixar and Does 1 –*
 20 *200*, Case No. 11-CV-03541 PSG.
 - 21 2. It appears likely that there will be an unduly burdensome duplication of labor and
 22 expense or conflicting results if the cases are conducted before different Judges.
 23 Civ. L.R.3-12(a)(2).
 - 24 3. It will be more convenient for the parties and witnesses and in the interests of
 25 justice for the five cases to proceed before a single Judge in the San Jose Division.
 26 Civ. L.R.3-2(h). The plaintiffs in the four additional actions were all formerly
 27 employed by a defendant headquartered in Santa Clara County. (*Devine* Compl.
 28 ¶ 21; *Marshall* Compl. ¶ 21; *Fichtner* Compl. ¶ 21; and *Stover* Compl. ¶ 21.) Five

of the seven Defendants—Adobe, Apple, Google, Intel and Intuit—maintain their principal places of business in Santa Clara County. By Defendants’ estimates, these five defendants employed at least 98% of class members, and employed 4 out of the 5 individual plaintiffs. These five defendants allegedly negotiated, finalized, implemented, and enforced agreements to eliminate competition among each other, within Santa Clara County. (*Devine* Compl. ¶¶ 61-96; *Marshall* Compl. ¶¶ 61-96; *Fichtner* Compl. ¶¶ 61-96; and *Stover* Compl. ¶¶ 61-96.) Thus, the majority of the percipient witnesses, relevant documents, and defendants are located in Santa Clara County.

4. Accordingly, transfer to the San Jose Division is appropriate. *See, e.g., Rivera v. Hewlett Packard Corp.*, Case No. 03-0939, 2003 WL 24029472, at *1-*2 (N.D. Cal. Apr. 22, 2003) (Armstrong, J.) (granting Hewlett Packard’s motion for transfer to the San Jose Division in an unlawful termination case, because Hewlett Packard maintained its principal place of business in Santa Clara County); *Baltazar v. Apple Inc.*, Case No. 10-3231, 2010 WL 4392740, at *1 (N.D. Cal. Oct. 29, 2010) (White, J.) (granting Apple’s motion for transfer to the San Jose Division in a product defect case regarding the iPad, where the design and development of the iPad occurred in Santa Clara County, and the advertising and marketing plans were developed there as well).

THEREFORE, THE COURT HEREBY ORDERS THAT the following cases are related to the instant action, pursuant to Civil Local Rule 3-12(f): *Devine v. Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., Pixar and Does 1 – 200*, Case No. 11-CV-03539 HRL; *Marshall v. Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., Pixar and Does 1 – 200*, Case No. 11-CV-03538 HRL; *Fichtner v. Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., Pixar and Does 1 – 200*, Case No. 11-CV-03540 PSG; and *Stover v. Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc., Lucasfilm Ltd., Pixar and Does 1 – 200*, Case No. 11-CV-03541 PSG.

1 THE COURT ADDITIONALLY ORDERS THAT the instant action be TRANSFERRED
2 to the San Jose Division, pursuant to Civil Local Rule 3-2(h).

3 IT IS SO ORDERED.

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5 Dated: _____

6 SAUNDRA BROWN ARMSTRONG
7 United States District Judge
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